



**ZONING BOARD OF APPEALS**  
**RICHARD D. CARNEY MUNICIPAL OFFICE BUILDING**  
**100 MAPLE AVENUE**  
**SHREWSBURY, MASSACHUSETTS 01545-5398**

October 26, 2004

**PUBLIC HEARING:** Heritage Home Carpentry, 235 Cherry Street, Shrewsbury, MA.

**PURPOSE:** To hear the appeal of Heritage Home Carpentry, 235 Cherry Street, Shrewsbury, MA, for a variance to the Town of Shrewsbury Zoning Bylaw, Section VII, Subsection E-4a, to allow the placement of a sign 8 ft. from the sideline Cherry Street upon property located at 235 Cherry Street. The subject premises is described on the Shrewsbury Assessor's Tax Plate 48 as Plots 16, 18 and 19.

**PRESENT:** Anthony M. Salerno, Chairman, Paul M. George, Melvin P. Gordon and Alfred C. Confalone.

Mr. Salerno opened the hearing by reading the advertisement as it appeared in the Worcester Telegram on October 11, 2004 and October 18, 2004.

Mr. Salerno: Please identify yourself for the audio record and make your presentation.

Mr. Lund: My name is Christopher Lund. I'm the resident at 235 Cherry Street as well as an owner of Heritage Home Carpentry, the company that's also located at that same location.

Mr. Cunningham: My name is Gary Cunningham. I live in Grafton at 13 Stowell Road. I work with Sunshine Sign Company. I filed the original application that was denied by the building department for the free standing sign located at the property.

Mr. Salerno: Mr. Rosen, is there something that you want to put into the record?

Mr. Rosen: Yes. I need to recuse myself from this hearing. I represent Sunshine Signs.

Mr. Salerno: Mr. Rosen is an accountant.

Mr. Gordon: So, they have a choice?

Mr. Salerno: Yes. With that in mind sir, unfortunately we didn't know Sunshine Sign was going to have a representative here, you have the option to come back at another time so that you have a complete quorum or you can go forward with the four members voting. You would need a unanimous decision in that case.

Mr. Lund: I'm comfortable with whatever decision's made tonight.

Mr. Salerno: Very good. If you have a presentation, let's hear it.

Mr. Cunningham: The subject property has unique features within the district. We feel that, given the fact that it has the appearance of a country farmhouse with a business operating out of it, that in itself is a unique feature.

The second unique feature of the property is the topography. Starting from the street, there is an elevation gain of about 4 ft. within the first 15 ft. of the property. The property line, starting from the Route 20 side, is lined with stately elm trees and a stonewall that obstructs the view of traffic coming from the Route 20 side. There is a free-standing sign currently located on the property advertising the business. The business logo has changed and the owners are seeking updated signage and siting a sign on the front portion of the property as a way of alerting the public of their existence and assisting in finding its location.

The bylaw that we're seeking relief from requires that any new sign be placed 25 ft. back from the property line. The house itself sits some 28 ft. from the property line. Siting the sign at 25 ft. would put it pretty much in the flower bed right in front of the house.

Approaching from Route 20, you first come upon a large beautiful maple tree. That is followed by the stone wall. There's a cut through the stone wall for a parking lot. The stone wall continues after this cut through. Along the stone wall are additional trees. All of this would obscure the front part of the property to travelers along the road. Coming from the opposite direction, on this higher elevation and directly in front of the home there are two large maple trees which would also obstruct the view of those passing by on the road if the sign were sited 25 ft. off of the lot line.

The size of the sign is well within the bylaw in terms of square footage. The fact that there currently exists a free-standing sign on the site suggests to us that siting a sign close to that present location would not derogate from the intent of the bylaw of the Town of Shrewsbury.

Mr. Salerno: Do you have some photographs or other demonstrative evidence you want to use?

Mr. Cunningham: Yes.

Mr. Salerno: Just circulate that starting with Mr. Gordon and then, if you want to address what's in the photographs, that might be helpful.

Mr. Cunningham presented photographs to Mr. Gordon and discussed them with him.

Mr. Gordon: This is the existing sign?

Mr. Cunningham: Yes.

Mr. Gordon: How much larger is this sign going to be?

Mr. Cunningham: This new one is probably one third larger.

Mr. Gordon: Only a third larger?

Mr. Lund: It's 46 x 46 inches, the new sign. The existing sign is approximately 28 x 42 inches.

Mr. Salerno: Do you have a proposal that shows what the existing sign is going to look like?

Mr. Cunningham: That wasn't part of the application? It should be with the appeal.

Mr. Gordon: Is this going to be parallel to the street or perpendicular?

Mr. Cunningham: It will be perpendicular. It will be set similar to the way the existing sign is sited.

Mr. Gordon: So, if I look at this and I picture it twice as long, I pretty much have it?

Mr. Cunningham: Actually, not twice as long.

Mr. Lund: It would be about a third longer.

Mr. Cunningham: The major change would be in the height of the sign.

Mr. Gordon: Okay. How much higher is it going to be? Forty-six inches? It's going to be close to 60 inches in all?

Mr. Cunningham: The overall height we have it at is 60 inches, depending on where it's located on the lot. As I said earlier, there's an elevation gain of about 4 ft. in the first 15 to 20 ft. of the property. So, one of those posts, if it were sited close to where the existing sign is, would obviously be longer than the other.

Mr. Gordon: Will it be a lit sign?

Mr. Cunningham: No. This would be a wood carved sign. It would be attached to granite posts.

Mr. Salerno: You're in a Limited Industrial Zone?

Mr. Lund: Yes.

Mr. Confalone: Is yours the only sign on the street?

Mr. Lund: There are two signs at the corner of Route 20 and Cherry Street, one for A&A Transportation. That falls within the bylaws. Then there's a sign for Apollo Trucking on

the corner of Route 20 and Cherry Street, which does not. It's 15 ft. off of Cherry Street and 22 ft. off of Route 20.

Mr. Confalone: Okay. I think, going down Cherry Street, you're the only sign there?

Mr. Lund: Well, the Apollo Trucking sign faces Cherry Street. It does not face Route 20. The A&A Transportation sign faces the corner.

Mr. Salerno: Is there anybody in attendance this evening that wants to comment on this petition or view these photographs? Seeing no further comment, we'll take the matter under advisement, vote at the end of the meeting and notify you of our decision. Board is there any discussion?

Mr. Gordon: It's not going to be lit.

Mr. George: It's not going to be lit?

Mr. Gordon: The other one will come down? That's the only thing I would want to make sure of is that the other one comes down.

Mr. Lund: Yes. That's a temporary job sign that we put in between the existing posts. That's why it looks a little ragged.

Mr. Gordon: Okay. When do you think you'll put this in, before the winter, if it were approved?

Mr. Cunningham: It would be contingent on how quickly we could get the granite posts. That's four to six weeks.

Mr. Gordon: No lighting is the only other thing that I would say. You've said no lighting and so I would like to agree with you.

Mr. Lund: Correct.

Mr. Salerno: So, the vote is going to be taken conditioned upon removal of the existing sign and no lighting.

Mr. Lund: Okay.

Mr. Salerno: I'm going to note it on your ballot.

Mr. Lund: Very good.

Mr. Salerno: If you want to retain these photographs you may.

On October 26, 2004, the Shrewsbury Zoning Board of Appeals unanimously voted to grant the appeal of Heritage Home Carpentry, 235 Cherry Street, Shrewsbury, MA, for a variance to the Town of Shrewsbury Zoning Bylaw, Section VII, Subsection E-4a, to

allow the placement of a sign 8 ft. from the sideline Cherry Street upon property located at 235 Cherry Street.

Upon review of the appellant's request to locate a sign closer to Cherry Street than what is prescribed by the Zoning Bylaw, the board found that, due to the grading of the front yard of subject property and existence of large trees and stone walls along its frontage, the literal enforcement of the terms of the bylaw would impose a substantial hardship to Heritage Home Carpentry in their attempt to identify their business. They noted that the proposed sign is of modest size and felt that the reduction of the setback from 25 ft. to 8 ft. for this structure would not seriously derogate from the intent of the bylaw or adversely impact the general character of this vicinity of Cherry Street. It was, therefore, unanimously voted to grant the appeal as presented to the board and subject to the following stipulations.

1. The proposed shall be configured substantially in accordance with the submittal presented to the board and that it shall not be illuminated.
- 2 The sign currently situated upon the site shall be removed.

Vote

Mr. Salerno	Yes
Mr. George	Yes
Mr. Gordon	Yes
Mr. Confalone	Yes

PUBLIC HEARING: Yunsheng Ma, 21 Vinnie Way, Shrewsbury, MA 01545.

PURPOSE: To hear the appeal of Yunsheng Ma, 21 Vinnie Way, Shrewsbury, MA, for a variance to the Town of Shrewsbury Zoning Bylaw, Section VII, Table II, Minimum Rear Yard Requirement, Residence B-2 District, to allow the construction of an addition 25 ft. from the rear lot line of property located at 21 Vinnie Way. The subject premises is described on the Shrewsbury Assessor's Tax Plate 39 as Plot 210-3.

PRESENT: Anthony M. Salerno, Chairman, Paul M. George, Melvin P. Gordon, Alfred C. Confalone and Ronald I Rosen.

Mr. Salerno opened the hearing by reading the advertisement as it appeared in the Worcester Telegram on October 11, 2004 and October 18, 2004.

Mr. Salerno: Please identify yourself for the audio record and make your presentation.

Mr. Ma: Thank you for allowing me to present my case to the board. I'm Yunsheng Ma living at 21 Vinnie Way in Shrewsbury. We currently live in the house.

Mr. Salerno: I'm just going to ask you to keep your voice up, sir, so everybody can hear you.

Mr. Ma: Yes, okay. We have a house with three bedrooms, a colonial house. We plan to build an addition with a 2-car garage attached to the existing house. We would like to have a variance because there are some hardships with the defined areas that we have.

There are several reasons why we need to ask for a variance. The first is that we have a very steep driveway. If I build parallel with the existing house, it's going to be a hardship because the grades of the slope right now are high. It's more than fifteen percent. So, we are going to have some trouble to do it.

Secondly, if I built parallel with the existing house, there will be a problem to drive off because we would have to back up. We have a lot of kids living on the street so it's going to be dangerous to do a garage that way.

If we get a variance and move the garage back a little bit, I can turn my car and then drive forward. It would be really safe for me.

Also, especially in New England, we have a lot of snow. The slope is so steep and, if I built a garage with the limitations that I have, it will be hard for me to drive my car up the driveway because of the snow. The water from the snow and rain could come directly to the garage because of drainage issues if I built the garage parallel with the house.

Finally, we have a stone wall on the side of the house. If we were going to build the garage parallel with the house, we would have to take the stone wall down. It would be expensive to do that.

Right now, we have four adults and one child living in a 3-bedroom house. We plan to have another child so we need some more room. We also plan to have a kind of family room on the second floor of the garage.

Mr. Salerno: So, there will be living space over the garage?

Mr. Ma: Yes. It is going to increase the living space that we have. Also, it's going to increase the value of the property. My builder, John Meader, is here.

Mr. Meader: I'm John Meader. I'm working with Yunsheng on this. I've got some drawings to show you. I'll recap what he's outlined already.

Mr. Meader presented the plans to the board. At the same time Mr. Ma presented pictures to the board.

Mr. Meader: It's a 2-car garage addition off to the side of the house. With the grade right now, without the variance, their driveway would actually end at the garage doors. So, we need some landing area to flatten it off before we enter into the garage.

On the second page of this, you can see the floor plan which would allow the new 2-car garage to be offset to the rear. That would allow us to keep one of the existing bays so that we would end up with a 3-car garage and convert one of the bays into an extended family room/mud room area.

Mr. Salerno: You lost me on that one John. How are you going to have three bays?

Mr. Meader: This is the addition. Right now, it's a drive under garage.

Mr. Salerno: Right.

Mr. Meader: So, we're going to keep one of the existing bays, set the garage back, have the new two bays over here, the mudroom is here and you can turn into the house here.

Mr. Gordon: The old garage will be a single garage?

Mr. Meader: Correct.

Mr. Gordon: The new garage will be a 2-car garage?

Mr. Meader: Yes.

Mr. Gordon: So, for a total of three.

Mr. Meader: So, we're getting more improvement out of the property by setting it back as well. It has steep grades and stone walls.

Mr. Salerno: You're going to keep the drive under then?

Mr. Meader: Yes. I've included some drainage to take care of the runoff and buildup that could happen in that alcove and just shoot it right off to the side of the driveway.

Mr. George: Is that a vacant lot, Mel, next to it?

Mr. Gordon: It's a vacant space. I think there's a right-of-way there or an easement for a walkway that goes over to Jordan Pond.

Mr. Meader: I think it's town land that surrounds the back and the side. The rear and side are surrounded by town land.

Mr. Rosen: What was the wet zone, towards the side?

Mr. Meader: Well, there's like a natural drainage thing that goes through there. It's not really a formal drainage setup. It's a low spot where everything runs down through the next lot to the path.

Mr. Salerno: Are there any questions?

Mr. Gordon: I would like two things. I would like to see the roof drains go into dry wells. Okay?

Mr. Meader: Yes.

Mr. Gordon: Will the soil take that? I think it will over there so that we reduce the amount of water that is going to go in that drain that you're talking about that goes into the wetland.

Mr. Meader: Okay.

Mr. Gordon: Okay. If you're going to have lawn sprinklers, I'd like you to have to put a well in.

Mr. Meader: We're not going to be dealing with sprinklers.

Mr. Ma: We don't have a sprinkler system.

Mr. Salerno: There are new bylaws governing new installations.

Mr. Gordon: Yes, but I don't know if it's for individual houses. I know it's in subdivisions.

Mr. Salerno: So, you want the roof drains in the language?

Mr. Gordon: I want the drains to go into drywells.

Mr. Salerno: Paul?

Mr. George: No.

Mr. Gordon: I think the hardship is the land.

Mr. Salerno: Exactly.

Mr. Gordon: It's an unusual lot. They can't build on the other side.

Mr. Meader: It's the lay of the land. It's tough.

Mr. Salerno: Is there anybody in attendance this evening that wants to comment on this petition? Seeing no further comment, we'll take the matter under advisement, vote at the end of the meeting and notify you of our decision.

#### Decision

On October 26, 2004, the Shrewsbury Zoning Board of Appeals unanimously voted to grant the appeal of Yunsheng Ma, 21 Vinnie Way, Shrewsbury, MA, for a variance to the Town of Shrewsbury Zoning Bylaw, Section VII, Table II, Minimum Rear Yard

Requirement, Residence B-2 District, to allow the construction of an addition 25 ft. from the rear lot line of property located at 21 Vinnie Way.

The board noted that both the shape of the subject property and its topography create and undue hardship to the appellant in his attempt to expand his home. They further noted that the abutting land to both the side and the rear of the proposed addition is part of a large, vacant town-owned parcel that extends a great distance towards Jordan Pond. It was their opinion that, in this instance, the reduction of the rear yard setback by 15 ft. would neither derogate from the intent of the Zoning Bylaw nor adversely impact the welfare of either the general public or other residents of this neighborhood. It was, therefore, unanimously voted to grant the appeal as presented to the board subject to the condition that the roof structure of the addition shall include the installation of gutters and downspouts with the downspouts connected to a subsurface recharge system.

#### Vote

Mr. Salerno	Yes
Mr. George	Yes
Mr. Gordon	Yes
Mr. Rosen	Yes
Mr. Confalone	Yes

PUBLIC HEARING: Richard W. Moisan, 5 Atwood Lane, Shrewsbury, MA.

PURPOSE: To hear the appeal of Richard W. Moisan, 5 Atwood Lane, Shrewsbury, MA, for a variance to the Town of Shrewsbury Zoning Bylaw, Section VII, Table II, Minimum Side Yard Requirement, Residence B-1 District, and a special permit as required by Section IV, Subsection B, to allow the construction of an addition 4 ft. from the side lot line of property located at 5 Atwood Lane and maintaining the existing front yard setback of said property. The subject premises is described on the Shrewsbury Assessor's Tax Plate 27 as Plot 190.

PRESENT: Anthony M. Salerno, Chairman, Paul M. George, Melvin P. Gordon, Alfred C. Confalone, Ronald I Rosen and Ronald S. Alarie, Building Inspector.

Withdrawn

PUBLIC HEARING: Steven D. Alward, 35 Flagg Road, Shrewsbury, MA.

PURPOSE: To hear the appeal of Steven D. Alward, 35 Flagg Road, Shrewsbury, MA, for a special permit as required by the Town of Shrewsbury Zoning Bylaw, Section IV, Subsection B, to allow the construction of an addition upon property located at 35 Flagg Road maintaining the existing setbacks of said property. The subject premises is described on the Shrewsbury Assessor's Tax Plate 58 as Plot 7.

PRESENT: Anthony M. Salerno, Chairman, Paul M. George, Melvin P. Gordon, Alfred C. Confalone and Ronald I Rosen.

Mr. Salerno opened the hearing by reading the advertisement as it appeared in the Worcester Telegram on October 11, 2004 and October 18, 2004.

Mr. Salerno: Please identify yourself for the audio record and make your presentation.

Mr. Alward: Yes, Steve Alward, 35 Flagg Road. I'm hoping to put a second story on the pre-existing property.

Mr. Salerno: Okay. Do you want to tell us a little bit more about it? Do you have any plans?

Mr. Alward: Basically, it's going to be a wide open space, just a bedroom, not bath. It's just to have the extra space. We had another child two years ago.

Mr. Confalone: Is this going over a garage or something?

Mr. Alward: No, over a pre-existing house that was originally built in 1937. We're just going up another story on top of that.

Mr. George: So, is it a ranch right now?

Mr. Alward: I don't know what you'd classify it as. If you have the print, we did do a part of a project there a couple of years ago.

Mr. Gordon: You put a small addition on a couple of years ago?

Mr. Alward: Yes.

Mr. Gordon: It's at the end of Flagg Road. In fact, the neighbors have cleaned it up dramatically since my last visit out there. This is just the front section of the house. It's a little square on the front.

Mr. George: Okay. So, they're just going above that?

Mr. Gordon: They're just going up above that one section.

Mr. George: Okay, yes.

Mr. Gordon: Correct Mr. Alward?

Mr. Alward: Yes. I highlighted it, the section in the plot plan. It's just a 34 x 20 ft. section.

Mr. Confalone: Have you talked to your neighbors about this?

Mr. Alward: Oh, yes.

Mr. Confalone: Everybody's all set?

Mr. Alward: Yes.

Mr. George: How many square feet is that addition going to be, approximately?

Mr. Alward: A little under 700.

Mr. Rosen: Is that what the ground floor is, 700?

Mr. Alward: Yes. It's 34 x 20. It's a little under 700.

Mr. Rosen: Are you going to maintain the existing surfaces?

Mr. Alward: Yes. There will be no change in the footprint. It will just be going straight up.

Mr. Salerno: What about the style of what you're going to do? Do you have any sketches or anything?

Mr. Alward: Well, we have a gable end on the right. It was an existing hip roof, but there's going to be another gable end. So, the house will actually have two gable ends facing the street.

Mr. Salerno: Do any board members wish to inquire? Is there anybody in attendance this evening that wants to comment on this petition? Seeing no further comment, we'll take the matter under advisement, vote at the end of the meeting and notify you of our decision.

### Decision

On October 26, 2004, the Shrewsbury Zoning Board of Appeals unanimously voted to grant the appeal of Steven D. Alward, 35 Flagg Road, Shrewsbury, MA, for a special permit as required by the Town of Shrewsbury Zoning Bylaw, Section IV, Subsection B, to allow the construction of an addition upon property located at 35 Flagg Road maintaining the existing setbacks of said property.

The board reviewed the appellant's proposal to construct a second story addition over a portion of his home that would maintain its existing side and rear yard setbacks of 7.6 ft. and 30 ft., respectively, and found that the expanded structure would not materially change the nonconforming configuration of this property. They noted many of the parcels abutting Flagg Road and George Street are nonconforming in similar regards and that the Alward residence, when completed, would conform to the general character of this neighborhood. It was, therefore, unanimously voted to grant the appeal as presented to the board.

Vote

Mr. Salerno	Yes
Mr. George	Yes
Mr. Gordon	Yes
Mr. Rosen	Yes
Mr. Confalone	Yes

PUBLIC HEARING: Steven Greene, 16 Brook Street, Shrewsbury, MA.

PURPOSE: To hear the appeal of Steven Greene, 39A Hartford Tpke., Shrewsbury, MA, for a variance to the Town of Shrewsbury Zoning Bylaw, Section VII, Table II, Minimum Front Yard Requirement, Rural A District, to allow the construction of a single family dwelling 37 ft. from the southerly sideline of Brook Street upon property located at 16 Brook Street. The subject premises is described on the Shrewsbury Assessor's Tax Plate 43 as Part of Plots 17 and 20-10.

PRESENT: Anthony M. Salerno, Chairman, Paul M. George, Melvin P. Gordon, Alfred C. Confalone and Ronald I Rosen.

Mr. Salerno opened the hearing by reading the advertisement as it appeared in the Worcester Telegram on October 11, 2004 and October 18, 2004.

Mr. Salerno: Please identify yourself for the audio record along with your attorney.

Mr. Greene: Good evening. My name is Steven Greene with G & C Real Estate, 39A Hartford Turnpike in Shrewsbury. This is my counsel, Jonathan Finkelstein.

Atty. Finkelstein: Good evening. I'm an attorney from Worcester. I'm here on behalf of Better Builders and Mr. Greene.

Mr. Salerno: Counsel, are you going to make the presentation?

Atty. Finkelstein: I will. Do you mind if I approach and just hand these out?

Counsel presented information to the board.

Atty. Finkelstein: I'm here tonight to request a variance from the Shrewsbury Zoning Bylaw's front yard setback requirement in the Rural A zoning district. A little chronology here, if I may. Back on October 5<sup>th</sup> as you can see on the front page of the handout I have, the planning board endorsed an ANR for three single family lots off Brook Street as each had sufficient frontage and land area.

Mr. Gordon: The planning board or the town engineer?

Mr. Greene: The town engineer.

Atty. Finkelstein: On Lot 1, you'll notice the outline of the existing house, which is proposed to be razed, that it's location on the lot is approximately 37 ft. from the front yard setback. The proposal is, on Lot 2, that the house be allowed to be placed within the front yard setback at around 37.4 ft. The reason for that is that, in appearing before the conservation commission for this lot, if you'll notice on page 3 of the handout, the conservation commission has a policy of discouraging any building within 30 ft. of the existing wetland.

What Better Builders is doing here is, after having flagged the wetland, it was discovered that there was a filled area. You'll notice that, on Lot 2, we will be restoring actually 144 sq. ft. So, the reason that we're giving this evening for the hardship for Lot 2 is the soil conditions which are present on this particular lot. If we were to set the house back at the 50 ft. line, it would invade the 30 ft. setback that the conservation commission requires to be set off for development. In looking at the two different policies and deciding whether or not to request a variance from the zoning board or a waiver from the conservation commission and seeing how the purpose of the conservation commission rules are to preserve existing wetlands and the purpose, it seems, of the zoning bylaw, at least in this case with a 50 ft. setback, is to create uniform aesthetic front yards, we thought that it would be best to request a variance from this board rather than a waiver from the conservation commission.

In reviewing other properties in the area, there are a variety of different setbacks on existing homes which are less than 50 ft. and a lot of new homes that all meet the 50 ft. setback.

I would be happy to answer any questions.

Mr. Salerno: Board members?

Mr. Gordon: On Lot 3 when I went and looked at it, I noticed that on the South Street side of it there's a stream area. I noticed that there was galvanized pipe coming from Lot 2 over toward Lot 3. So, isn't that where your building is going to go?

Mr. Greene: Actually, speaking with conservation, they had asked that we actually remove the pipe and create sort of an area where the water could naturally flow and fill in. That area is filled wetlands. It's been filled over the years and so what we're proposing is to basically dig out the area.

Mr. Gordon: Are you going to put a swale in or are you going to put a trench in or what?

Mr. Greene: Yes. The corrugated pipe will be removed and then there will be a sort of trench that will basically feed into that area where you noticed the brook on the corner of South.

Mr. Gordon: That still gives you the 15,000 ft. of uplands?

Mr. Greene: Yes, it does. Yes.

Mr. Gordon: Is the house on Lot 1 still coming down?

Mr. Greene: That house is going to come down.

Mr. Gordon: Will any of the houses conform to the Zoning Bylaw?

Mr. Greene: Yes.

Atty. Finkelstein: All but Lot 2.

Mr. Greene: All but the middle one.

Mr. Gordon: The existing house will come down and we're going to make that one conform?

Mr. Greene: Yes.

Mr. Gordon: So, you'll be moving it back?

Mr. Greene: Correct.

Mr. Salerno: Have these lots already been subdivided?

Mr. Greene: They have.

Atty. Finkelstein: They have. On the front plan, you'll see that we recorded it in Plan Book, I think, 811416 or something like that.

Mr. Gordon: Are these all going to be connected to sewers?

Mr. Greene: Yes.

Mr. Confalone: Prior to subdividing, did you know that this large wetland area existed there?

Mr. Greene: Yes. I had the wetlands person go out and basically locate the wetlands.

Mr. Confalone: Okay. Your hardship is the wetland?

Atty. Finkelstein: Yes, the wetland that, under the statute, would be the soil conditions that prevents us from getting closer. The option here is to go back to the conservation commission and ask them for a waiver of their policy versus a variance from this board for 13 ft. from the bylaw.

Mr. Rosen: So, if there wasn't a conservation issue, you would be able to make this conform?

Mr. Gordon: Definitely.

Mr. Gordon: All three of them?

Mr. Greene: Yes they would.

Mr. Salerno: Is there anybody in attendance this evening that wants to comment on this petition? Ma'am, just identify yourself for the record.

Ms. Govoni: Denise Govoni. I own the property on 11 Brook Street.

Mr. Salerno: What's your question ma'am?

Ms. Govoni: I don't know if it's appropriate to hear, but my concern is that, in the work that they're going to do for the wetlands and putting the property there, is that going to force some more water into that brook and across the street into my yard?

Mr. Greene: No. We will not be creating any additional water.

Ms. Govoni: The level of water will not change by removing the pipe and trenching it?

Mr. Greene: Correct. We're going to basically just dig out the area that's been filled and basically just allow it to be more of a wetland area rather than having it piped. I mean, over the years it has been filled in so, basically, we're just going to restore it and replicate that area. We're not going to fill anything in. We're not going to increase the water at all. It's going to be the same water that's always there.

Ms. Govoni: Okay.

Mr. Salerno: Sir?

Mr. Maleckas: My name is Vincent Maleckas. I live on 20 Brook Street in Shrewsbury, MA. I have no objection. I think he's doing pretty well down there. I think it would be good to build the foundation and everything.

Mr. Salerno: Well, thank you for taking the time to come and tell us that.

Mr. Maleckas: I'm the abutter.

Mr. Salerno: You currently own the property, sir?

Mr. Greene: Pardon me?

Mr. Salerno: You currently own the property or is it under agreement?

Mr. Greene: I have a contract on the property, yes.

Atty. Finkelstein: He has an option on the property.

Mr. Salerno: So, you don't own it yet?

Atty. Finkelstein: We have not closed yet.

Mr. Salerno: Is your purchase contingent upon securing the variance?

Mr. Greene: Yes.

Mr. Salerno: Or a waiver?

Mr. Greene: Yes.

Mr. Salerno: Would anybody else like to comment? Seeing no further comment, we'll take the matter under advisement, vote at the end of the meeting and notify you of our decision.

#### Decision

On October 26, 2004, the Shrewsbury Zoning Board of Appeals voted two in favor of and three opposed to the granting of the appeal of Steven Greene, 39A Hartford Tpke., Shrewsbury, MA, for a variance to the Town of Shrewsbury Zoning Bylaw, Section VII, Table II, Minimum Front Yard Requirement, Rural A District, to allow the construction of a single family dwelling 37 ft. from the southerly sideline of Brook Street upon property located at 16 Brook Street.

In considering this appeal, the majority of the board was of the opinion that, since the property is being subdivided into three lots, the appellant's claim of hardship is self-created as it relates to the configuration of the new parcels and not necessarily due to the wetlands existing upon the premises as a whole. They found that the reduction of the front yard setback by 13 ft., in this instance, would significantly depart from the intent of the Zoning Bylaw and would conflict with the statutory prerequisites for the issuance of a variance as set forth in Chapter 40A of the Massachusetts General Laws. They, therefore, voted to deny the appeal.

Two members of the board found that the wetlands encumbering the subject lot presented an undue hardship to the appellant in his attempt to develop the parcel for single family use. They noted that the homes fronting upon this section of Brook Street have varying front yard setbacks, with several positioned at nonconforming distances. It was their opinion that, in this situation, the granting of the relief requested would not materially depart from the intent of the bylaw or create any condition which would adversely impact the welfare of either the general public or area residents. They, therefore, voted to grant the variance.

#### Vote

Mr. Salerno

No

Mr. George	No
Mr. Gordon	Yes
Mr. Rosen	Yes
Mr. Confalone	No

PUBLIC HEARING: Richard and Linda Zolla, 370 Grafton Street, Shrewsbury, MA.

PURPOSE: To hear the appeal of Richard and Linda Zolla, 370 Grafton Street, Shrewsbury, MA, for a special permit as required by and a variance to the Town of Shrewsbury Zoning Bylaw, Section VI, Table I, to allow the occupancy of part of the detached garage situated upon property located at 370 Grafton Street as an in-law apartment. The subject premises is described on the Shrewsbury Assessor's Tax Plate 41 as Plot 2-2.

PRESENT: Anthony M. Salerno, Chairman, Paul M. George, Melvin P. Gordon, Alfred C. Confalone and Ronald I Rosen.

Mr. Salerno opened the hearing by reading the advertisement as it appeared in the Worcester Telegram on October 11, 2004 and October 18, 2004.

Mr. Salerno: Mr. Ricker, would you introduce Mr. Zolla and make your presentation.

Atty. Ricker: Yes. Thank you Mr. Chairman and members of the board. My name is Richard Ricker. As you know, I'm an attorney practicing in Shrewsbury. With me tonight is Richard Zolla, your petitioner.

Basically, this is a request for a special permit to allow the use of a detached garage which is located towards the middle of a fairly large lot, as you can see from the plot plans in your package, as an in-law apartment for use for his son who comes up from Florida, kind of every year, to be with them. He goes to Florida half the year and comes back here half the year so he wishes to use that as the in-law apartment. Richard and Linda, Richard's wife and David's mother, are staying in the main house and, obviously, the son, being 38 years old, wishes to have a little privacy, but still be close to home and his parents. He would like to be in the detached garage and occupy it as in in-law apartment.

The reason for the variance is because it is detached. That's what makes this a little bit unusual. Ordinarily, if it was attached, it would just be the special permit. Because of the fact that it's detached, we're also dealing with the request for a variance.

There are a number of factors for the board to consider. I would respectfully suggest that one is that the Zollas own approximately 4 acres in this particular location. This particular lot is 2.16 acres. Therefore, it is a very substantial lot as compared to many of the lots around it. You're dealing with a large lot. They built the original house and garage on it in 1982, not even envisioning that they shouldn't be separating the garage from the house by such a distance. They were dealing with a large lot. They said "Well gee, let's put the garage back there." They've used it as the garage all this time. Now they wish to use it for this purpose. Yes, they do also have a garage under some living

area up in front. They do use that. They use that as part of their home. It's an active room for them so that is why the request is to use this area back here.

It basically wouldn't change outwardly at all. There would be no outward appearance changes. It would remain the same. All of the work would be inside. I have a picture of the structure itself, if you want to see it. It's not great picture, but it's a picture.

Atty. Ricker presented the picture to the board.

Mr. George: How many square feet is that building?

Atty. Ricker: How many square feet is that?

Mr. Zolla: It's 30 x 22. It's 660.

Atty. Ricker: So, the outward appearance of the structure would not change.

Mr. Gordon: It has a second floor right now, right?

Atty. Ricker: It has a second floor right now. That would be primarily the main living area. There would be a den on the first floor with a foyer to go up.

I would suggest that this is incidental to just this lot because it is a large lot. It's a very large lot for this particular neighborhood. This would not be derogatory to the bylaw or harmful or detrimental to the neighborhood in the least because what this garage faces is woodlands all the way around. The abutter is woodlands. It's quite a distance from this area to the next abutting household up the street. So, there really wouldn't be any nuisance fact or any detrimental affect whatsoever to the neighbors.

So, basically, that's it. I really don't have anything else.

Mr. Gordon: Who else is on that right-of-way, Richard? Is Shrewsbury Hunt Limited Partnership?

Mr. Zolla: Well, Shrewsbury Hunt actually owns it.

Mr. Gordon: Okay.

Mr. Zolla: We have a recorded right-of-way.

Mr. Gordon: You have a recorded right-of-way?

Mr. Zolla: Yes.

Atty. Ricker: He's had it for some time.

Mr. Zolla: I've had that for quite a while.

Mr. Gordon: What, does it go up to the old house?

Atty. Ricker: It basically went up the back way to the old house, yes. In fact, they use that. He uses it now. The garage is actively used. If you went down there, you saw the driveway to the garage.

Mr. Gordon: There's a truck in the driveway.

Atty. Ricker: Right.

Mr. Gordon: I saw that. What I also saw was that there was a second floor on that garage that was used for something.

Atty. Ricker: It's a loft. It's historically been used as a loft.

Mr. Gordon: Kind of a playroom for the kids as they grew up?

Atty. Ricker: Kind of a playroom for the kids and they stayed overnight.

Mr. Gordon: I noticed that there's heating there now of some form.

Atty. Ricker: There's some heating there, not a lot. Not what they need.

Mr. Gordon: I said of "a form." So, the outward appearance of this would not be changing at all?

Atty. Ricker: No.

Mr. Gordon: The use is going to be limited to your son? You know an in-law apartment is limited to a member of the family?

Mr. Zolla: Correct.

Mr. Gordon: But, if we limited it further, that would not be a problem?

Atty. Ricker: We would ask you to limit it to either the son or they have an aunt that they thought might end up with them.

Mr. Gordon: I only ask this because sometimes we get tricked.

Atty. Ricker: No. If you wanted to limit it, we certainly wouldn't have a problem with that at all. It would be either their son or Linda's elderly aunt.

Mr. Salerno: An aunt doesn't qualify though under the in-law apartment does it?

Atty. Ricker: She is a blood relative.

Mr. Salerno: A blood relative or by marriage so we wouldn't have to put a limitation as to the aunt. It would be a straight in-law apartment.

Atty. Ricker: We certainly don't have any objection to whatever limitation you might want.

Mr. Zolla: We have no objection.

Mr. Gordon: Do you have any further plans to subdivide this particular lot?

Mr. Zolla: No.

Mr. Gordon: So, there're no plans for that?

Mr. Salerno: I mean, you can't stretch it out like Foxwoods. You can't be 1/16<sup>th</sup> Zolla and live back there. You're going to have to have some blood tie.

Dick, do you still own that Lot B next to where you come in?

Mr. Zolla: Yes.

Mr. Salerno: This was all one parcel at one time, right, with the original house?

Mr. Zolla: Yes.

Mr. Salerno: It looks like it's just an internal change?

Atty. Ricker: It is. It really is.

Mr. Gordon: Basically, it's been used like that over the years, but informally. He wants to get legal.

Atty. Ricker: And David would like a little privacy, at least that's what Linda told me today.

Mr. Salerno: Is there anybody in attendance this evening that wants to comment on this petition? Seeing no further comment, we'll take the matter under advisement, vote at the end of the meeting and notify you of our decision.

#### Decision

On October 26, 2004, the Shrewsbury Zoning Board of Appeals unanimously voted to grant the appeal of Richard and Linda Zolla, 370 Grafton Street, Shrewsbury, MA, for a special permit as required by and a variance to the Town of Shrewsbury Zoning Bylaw, Section VI, Table I, to allow the occupancy of part of the detached garage situated upon property located at 370 Grafton Street as an in-law apartment.

The board reviewed the appellants' proposal to occupy, as an in-law apartment, the loft area above the detached garage situated to the rear of their home and found such use to be consistent with the intent of the Zoning Bylaw in permitting such accessory living accommodations within a single family district. They noted that the garage is located approximately 90 ft. to the rear of the principal residence situated upon the subject property and abuts a large tract of vacant land. It was their opinion that, in this instance, the occupancy of this structure for such a limited use would not materially depart from the intent of the bylaw or create any condition which would adversely impact the welfare of area residents. It was, therefore, unanimously voted to grant the appeal as presented to the board.

#### Vote

Mr. Salerno	Yes
Mr. George	Yes
Mr. Gordon	Yes
Mr. Rosen	Yes
Mr. Confalone	Yes

PUBLIC HEARING: Florence and George Bergquist, 95 Worthington Ave. and 19 Jackson Street, Shrewsbury, MA.

PURPOSE: To hear the appeal of Florence and George Bergquist, 95 Worthington Ave., Shrewsbury, MA, for variances to the Town of Shrewsbury Zoning Bylaw, Section VII, Table II, Minimum Area, Front and Rear Yard Requirements, Residence B-2 District, to allow the division property located at 95 Worthington Ave. and 19 Jackson Street into two lots with the former lot having 4,919 sq. ft. of land area and the development of the latter lot utilizing 25 ft. front and rear yard setbacks. The subject premises is described on the Shrewsbury Assessor's Tax Plate 39 as Plots 221-1, 307 and 308.

PRESENT: Anthony M. Salerno, Chairman, Paul M. George, Melvin P. Gordon, Alfred C. Confalone and Ronald I Rosen.

Mr. Salerno opened the hearing by reading the advertisement as it appeared in the Worcester Telegram on October 11, 2004 and October 18, 2004.

Mr. Salerno: Please identify yourself for the audio record and make your presentation.

Ms. Bergquist: Florence Bergquist.

Mr. Bergquist: George Bergquist, homeowner at 95 Worthington Avenue.

Mr. Salerno: What would you folks like to say in support of your petition?

Ms. Bergquist: Well, it's surprising to us that we had to get a petition because we bought the original lot on 95 Worthington Ave. with a house as it was a non conforming lot. The

back pieces of land were purchased much later. The first one was bought in 64 and the other was 85 and we had no idea. We've been getting two tax bills right along. So, we had no idea that they've been joined as one lot. We've always thought that we would use the back lot or sell the back lot. We probably would have liked to build a smaller house on it. Since we're both retired early, we find that the taxes we're paying on it have become a burden. We would like to sell the back lot.

It backs onto Wendell Street where two new houses were bought that backed into the property on Jackson Street. It's approximately the same size. Adding the back lots to the front lots still does not make the front lot a conforming lot. I would say that most of the properties facing on Worthington Avenue are not conforming. It's an old neighborhood. The rear lot does not add anything to the front lot at all. It's set back and is much lower.

Mr. George: What would the amount of frontage be on that back proposed lot?

Ms. Bergquist: The back lot would have 150 ft. It's 85 to the rear. The lots on Wendell Street were given a variance to allow a 15 ft. front setback. It's approximately the same size as the lots that are there.

Mr. Gordon: You're asking for one lot. You've merged 307 and 308?

Ms. Bergquist: Yes and detached from 221.

Mr. Gordon: They're detached from 221?

Ms. Bergquist: Lot 221 is what we really want. We had no idea that that was combined.

Mr. Salerno: Well, they merged into each other. It's all one lot. You're paying separate taxes, you said, on it?

Ms. Bergquist: Yes. We get two tax bills. The front lot was bought in 1964 with the house on it and the back was in 1985.

Mr. Salerno: But, they were all bought under the same name?

Ms. Bergquist: We had no idea that that would cause a hardship ever. But, like I said, the front lot, when we bought it, was nonconforming. It's still nonconforming. The rear lots do not add to it. It's a much lower grade.

Mr. George: Is there a house on the rear lot right now?

Mr. Bergquist: No.

Mr. George: No. What is that structure that's there?

Mr. Bergquist: It's a shed.

Mr. Gordon: Would this lot go where the land goes down, where the hill is?

Ms. Bergquist: Yes. There's a set for forsythia bushes which are the end of the first lot, the 95 Worthington lot.

Mr. Gordon: Some of your stuff would be on 307?

Ms. Bergquist: Well, we'd have to move it.

Mr. Gordon: Yes. Well, I'm just asking so that I can visualize what's happening there.

Ms. Bergquist: Yes, there is some of our stuff there. The forsythia bush is the end of the lot for 95 Worthington. It really is two different areas. I think I gave you pictures and you can see that.

Mr. Gordon: Do you have any wetland property there? I remember there was some on the Wendell property.

Ms. Bergquist: No. The town owns the next lot after the Jackson Street lot that we're talking about. The next lot is town owned. We're not anywhere near the wetlands.

Mr. Gordon: Okay. So, 222 is owned by the town?

Ms. Bergquist: Yes.

Mr. Salerno: But, I think that was one of the issues on that Wendell Street one.

Mr. Gordon: Regarding those two houses over on Wendell, that's why they needed to stay close to the front?

Mr. Salerno: Right.

Mr. Gordon: Jackson is the same kind of street. They've got the same kind of paving.

Mr. George: Right.

Ms. Bergquist: This lot on Jackson though is perfectly level. Like I said, we had no idea that we would have to get a petition.

Mr. Salerno: Well, I mean, it's going to be sold or, if it was divided off, you're going to sell it and somebody's going to build on it?

Ms. Bergquist: It's a beautiful one house lot. It's flat, it's treed.

Mr. Confalone: Lots 220 and 221, are there houses on those right now?

Mr. Bergquist: Lots 220 and 221?

Mr. George: On Worthington Ave.?

Mr. Confalone: On Worthington Ave., right.

Ms. Bergquist: There are three nonconforming lots between Wendell and Jackson Street. My father bought all of that land years ago for taxes.

Mr. Salerno: Well, they're all nonconforming lots around Wendell and Jackson Streets.

Ms. Bergquist: Yes, they are. Worthington Ave. is all nonconforming. Actually, except for the setback, the lot on Jackson Street will be conforming.

Mr. Gordon: All right, but 307 and 308 are not to be further subdivided?

Ms. Bergquist: No.

Mr. Gordon: So, that could go into our decision if we decided to grant it?

Ms. Bergquist: No. That's what makes it one house lot.

Mr. Salerno: Well, they're not technically subdivided now. They've all merged into one.

Mr. Gordon: They've all merged into one. But, if we do agree, I don't want to see two houses on that one lot.

Mr. George: We don't want to see it further subdivided.

Ms. Bergquist: No. There's not enough room. The 223 lot was one lot and they were allowed to divide it into two house lots.

Mr. Salerno: They were, but the difference was that there was 338 ft. of frontage on Wendell and of that, the back end of that was in the wetlands. That's why they divided it that way. I'm not saying that I agree with that either.

Ms. Bergquist: It will be approximately the same size as the new house that's built behind it.

Mr. Salerno: Is there anybody in attendance this evening that wants to comment on this petition? Sir, just identify yourself for the audio record and tell us your concerns.

Mr. Joseph: I'm Joseph of 8 Jackson Street in Shrewsbury. I just want to say that I have no problem with it.

Ms. Bergquist: Oh, thank you.

Mr. Salerno: Thank you for taking the time and coming here.

Ms. Bergquist: Yes, thank you.

Mr. Salerno: Seeing no further comment, we'll take the matter under advisement, vote at the end of the meeting and notify you of our decision.

#### Decision

On October 26, 2004, the Shrewsbury Zoning Board of Appeals unanimously voted to deny the appeal of Florence and George Bergquist, 95 Worthington Ave., Shrewsbury, MA, for variances to the Town of Shrewsbury Zoning Bylaw, Section VII, Table II, Minimum Area, Front and Rear Yard Requirements, Residence B-2 District, to allow the division property located at 95 Worthington Ave. and 19 Jackson Street into two lots with the former lot having 4,919 sq. ft. of land area and the development of the latter lot utilizing 25 ft. front and rear yard setbacks.

The appellants own 3 contiguous nonconforming lots, one of which fronts upon Worthington Ave. and is occupied by their single family home. The remaining 2 parcels are vacant and front upon Jackson Street. They propose to combine these lots and separate them from their homestead to create a second buildable parcel.

Upon review of this appeal, the board noted that significant relief from the literal terms of the Zoning Bylaw is necessary to effectuate Mr. and Mrs. Bergquist's proposal. They found that the granting of the variances requested, particularly the one needed to create a lot having less than 5,000 sq. ft. of land area, would substantially derogate from both the intent and the purpose of the bylaw. Furthermore, they felt that there were no conditions affecting this property, as a whole, that would warrant the issuance of such relief and, therefore, unanimously voted to deny the appeal.

#### Vote

Mr. Salerno	No
Mr. George	No
Mr. Gordon	No
Mr. Rosen	No
Mr. Confalone	No

PUBLIC HEARING: Berlin Bandag, Inc., 370 Hartford Tpke., Shrewsbury, MA.

PURPOSE: To hear the appeal of Berlin Bandag, Inc., 160 Colony Street, Meridan, CT, for a special permit as required by the Town of Shrewsbury Zoning Bylaw, Section VI, Table I, to allow the use of property located at 370 Hartford Tpke. for the sale and installation of motor vehicle tires and for the repair of trucks. The subject premises is described on the Shrewsbury Assessor's Tax Plate 53 as Plot 31.

PRESENT: Anthony M. Salerno, Chairman, Paul M. George, Melvin P. Gordon, Alfred C. Confalone and Ronald I Rosen.

Mr. Salerno opened the hearing by reading the advertisement as it appeared in the Worcester Telegram on October 11, 2004 and October 18, 2004.

Mr. Salerno: Mr. St. Pierre?

Atty. St. Pierre presented pictures to the board.

Atty. St. Pierre: Thank you Mr. Salerno. I'm Attorney Rod St. Pierre. For the record. Gary Steanburg is with me. He's with Berlin Bandag. Also with me is John Linde, the owner of the property, who is in the audience if anybody needs to address any issues regarding the property.

Berlin Bandag, Inc. is in the commercial basic truck tire business. Regarding the property in question, a special permit was granted to Mr. Linde back in 1988 to use it for the repair and storage of vehicles. Those operations have been ongoing for some 16 years. Basically, what's before you this evening is for the same use together with the sale and the installation of tires.

The Berlin family has been in the tire business for over 40 years. Some seven or eight years ago they had 160 stores that they sold to Michelin. At that time Bob Berlin, the principal of this company, stayed on and was part of the Michelin operation until about a year ago when he decided to go on his own. Unfortunately, he's undergoing some tests down in Connecticut and is not able to be with us this evening. So, Gary's here in his place.

They are operating three stores together with a re-treading factory in Connecticut. This is their first endeavor in Massachusetts. This is a franchise operation so there are certain restrictions that the franchisees put on these particular locations. Again, this is the first proposal here in Massachusetts. It's very similar to the Sullivan Tire proposal that was before this board in July of 2003.

Basically, the hours of operation proposed are 7:00 A.M. to 6:00 P.M., Monday through Friday, 7:00 to 12:00 on Saturdays and there would be no Sunday hours. They do plan on having approximately five to eight employees. Again, with the truck tire business that they're operating, approximately seventy to eighty percent of this is done off the site with some twenty to thirty percent done at this particular location.

I've given you some pictures. Again, the building is approximately 7,000 sq. ft. There are five bays. They do plan on having a small showroom for truck tires. The other pictures there, the ones that are in larger print, are basically the Plainfield operation for Berlin just to give you an idea of what their facilities look like. I think we've got four or five pictures similar to that.

Again, there will be a small showroom for truck tires. There is some limited retail sales, primarily for light truck and some passenger cars. It's really just to accommodate their clientele. A lot of the contractors and businesses of that nature have smaller trucks. They do not tow vehicles, so there will be no towing. There will be no outside storage of tires. The only thing outside will be a box trailer that will handle the scrap tires. As that gets filled, that will be moved off the site. Most of the operation, as far as the repairs, will be internal, such as the front end alignment, brakes and things of that nature. There

will be some minimal outside repairs for the larger tractor trailers that come in for tires where they have to be removed and things of that nature. That's just because of the restraints on the building. It might be difficult to bring a box trailer into the building.

Mr. Salerno: Let's talk about that for a minute, counsel, because that always seems to be an issue. Concerning the amount of outside repairs, can we be more specific about it and where it's going to be done on the property?

Mr. Steanburg: Yes. Typically what you're getting into outside is you get a tractor trailer that comes in with a 53 ft. box on there and he's got a flat on the rear. As opposed to trying to take that thing and back the trailer and get it squirreled into the building so that you can change it there, because it generally takes all of fifteen or twenty minutes to do it, we'll pull them up outside. Typically in that location, they'd be coming up and circling around on the left, as you're facing it, and we'd jack them up and take the tire off and off it goes. If somebody comes in with just a tractor, we're going to try to pull him into the building. It's much easier for us to work inside than it is outside. Sometimes we are forced into it. Occasionally we will get loaders that will come in or backhoes. They're a rare occasion because most of it is done on-site at the customer's. In those cases if need be, it will be outside. We don't typically, in any of our locations, store any vehicles overnight. It's all done during the day. They're in and out during the day. They may be there for a period of three or four hours, perhaps, but we're not in the storage business for people's vehicles.

Mr. Salerno: You're operation in Connecticut, the bays are on the back side of the building? They don't face the road?

Mr. Steanburg: They're on the back side. That's correct.

Mr. Salerno: It would be just the opposite here? The bays would face the road?

Mr. Steanburg: That would be correct.

Atty. St. Pierre: I don't think there's any access to the back of the building that could be utilized as far as the grade that's there now. Everything would have to be in the front of the building. Again, they do plan on repaving the site. You'll see some landscaping there. That's going to be totally redone and dressed up. There will be a general cleanup. They're not purchasing the property. This is a lease so they don't have that luxury, but that's the plan, a general cleanup.

Mr. Salerno: How long is the lease for?

Atty. St. Pierre: It's proposed to be a five year lease with some extensions, I think two or three fives on top of that. I'm not sure, but I know it's at least five plus a five extension.

Mr. George: What are you planning on doing for signage or lighting there?

Mr. Steanburg: It would be our intent, depending on the laws of the town, to put a sign out near the road so that we can catch the traffic coming up and down Route 20.

Atty. St. Pierre: I think we have to be, what, 35 ft. off of Route 20, if I'm not mistaken. I'll check with Mr. Alarie, but whatever the Zoning Bylaw provides, we would live with that signage together with probably some signage as you see on the building for John Linde. It would be somewhat similar to that.

Mr. George: The entrance to that property, is that just wide open there or is there a curb cut?

Atty. St. Pierre: I would say that it's wide open.

Mr. Linde: It's wide open.

Atty. St. Pierre: I didn't really see. It's probably 75 to 80 ft. wide, if I'm not mistaken. Again, John's here to answer that question. John, how wide is that opening?

Mr. Linde: There is a curb there. There's probably about a 60 ft. wide opening on it. It's plenty big enough for big trucks.

Mr. Gordon: What's going to happen on the Clews Street side?

Atty. St. Pierre: Nothing.

Mr. Gordon: Okay. Did you get a copy of the fire chief's letter?

Atty. St. Pierre: Are you alluding to John's son sleeping upstairs? There isn't an apartment there. It's something where his son came home, stayed for a few days upstairs. It happened to be the same time that the fire chief came to inspect. That will be executive offices. There will be no apartments upstairs. So, we did address that issue as soon as we heard about it. To my knowledge, he's no longer sleeping there.

Mr. Gordon: He moved out?

Atty. St. Pierre: He has moved out.

Again, the appeal that was before this board in 1988 and the special permit that was issued was to construct his building and it was done in accordance with that decision. As I said, it has been operational for the same use for the last 16 years.

Again, the Berlin operation will not be a detriment to the neighborhood. As required by special permit, it is very comparable to the existing properties. You've got a transmission dealership next door. You've got Saulenas Auto Body, the car wash, Pete's Tire Barn, for example, and then some vacant land that actually we own. So, we are a direct abutter as well and we have no problem with this request as an abutter.

Mr. Steanburg: If I might just add, gentlemen, I know one of the biggest problems with the tire business is with anybody coming into any town they may have a bad reputation, particularly with appearance and all the rest of it that goes on with it. Although you don't

know Mr. Berlin, he takes a very dim view of any of that. We have an image that we're trying to put forth and are trying to bring this business that we're into to a different level. Appearance and how we handle our business is part of it. I know that I'm just telling you that. You can believe it or not, but it's really important to us. We do not want something that's going to be an embarrassment to either ourselves or to this town.

Atty. St. Pierre: Again, as I pointed out earlier, it is a franchise operation so there is definitely some policing by the franchisor in that matter as well.

Mr. Salerno: This will be a franchise up here?

Atty. St. Pierre: Yes. They have a re-treading facility in Connecticut. That's the primary bulk of their business. It then services their retail outfits. This is strictly for truck repair, as I've noted, and tire sales only.

Mr. Salerno: The operation in Connecticut then is just for manufacturing?

Atty. St. Pierre: It services these facilities and services the other three that they have in Connecticut.

Mr. Salerno: It supplies them?

Atty. St. Pierre: Supplies them, correct.

Mr. Steanburg: That's correct. The re-treading end is the franchise end. We deal with Bridgestone, Michelin, Yokohama and so on as our major suppliers. The re-treading comes out of Connecticut and it will until such time as we need to expand. We anticipate that will happen sometime down the line.

Atty. St. Pierre: That's a factory operation, not a retail store.

Mr. Salerno: What are the hours of operation you are requesting?

Atty. St. Pierre: Seven to six, Monday through Friday, and seven to twelve on Saturday.

Mr. Gordon: Except for the trailer, no overnight storage?

Atty. St. Pierre: Correct, no tire storage.

Mr. Steanburg: That is correct.

Atty. St. Pierre: No storage of tires except what they'll have for the scrap tires.

Mr. Gordon: In the trailer?

Mr. Steanburg: That's correct.

Atty. St. Pierre: Yes, in the trailer, the box that they sit in.

Mr. Steanburg: All of the service trucks will be inside.

Atty. St. Pierre: I would not like to limit the fact that a customer couldn't drop a trailer off at 4:00 in the afternoon and they just can't get it out that day. There are going to be some situations where there're going to be some boxes left overnight just because of the timing of it or because of a severe problem that they can't get it out of there. Their goal is, again, 70 to 80 percent of it is done off site as far as the work that they perform.

Mr. Salerno: Well, do you have service trucks 24/7?

Mr. Steanburg: Yes, we do.

Mr. Salerno: So, they're going to be accessing the property 24/7?

Mr. Steanburg: They might need access to it. Typically what we do with the service trucks is we load them with tires at night. The guys take them home. They all have beepers and cell phones. We dispatch them right from their homes. Most of the people who run at night are your long distance freight haulers. We know what size tire they're going to carry and they're just looking for service. We don't try to get the guys back into the shops at all if we can avoid it. Does it happen on occasion? Yes, I've seen it, but when I was running TCI, which is just down the street here, we were running 24/7, the guys might come in once a week and we were running six nights out of the week. That's just to grab a tire and go. We don't do the service there. But yes, can it happen? Yes, it can.

Mr. Salerno: How many service trucks are you going to operate out of this?

Mr. Steanburg: Initially, we're going to be running with three.

Mr. George: They're going to be stored at the person's home or at the operation itself?

Mr. Steanburg: Generally the one who's on night service will be taking his home. The others are parked in the shop.

Mr. George: In the shop?

Mr. Steanburg: In the shop, that's correct.

Atty. St. Pierre: These are basically 60 ft. bays so you can probably fit two trucks in each bay. You have five bays there.

Mr. Salerno: My only concern was leaving the trailer units out. Those bays are big enough that you could put a trailer unit inside at night if you had to store it at night.

Mr. Steanburg: Just the tractor or the trailer?

Mr. Salerno: Well, they're 60 ft. long you said?

Mr. Steanburg: Yes. It doesn't leave you much room. If that's a criteria to making the thing happen, I'm sure we can certainly do everything we can to accommodate that. It's not a common occurrence. It really isn't, but it can happen.

Atty. St. Pierre: Could we, say, limit it to no more than three vehicles overnight at any one time outside?

Mr. Salerno: Well, I mean, my concern is just that. You could have three units in there at night waiting for tires. They seem to be the bulk of your customers. I don't want to turn it into a truck stop.

Mr. Gordon: Mr. St. Pierre, how many trucks does Mr. Linde have outside when he's running his business?

Atty. St. Pierre: I'll defer that to John. I don't really know the answer to your question. That's why I'll defer it to Mr. Linde. How many trucks do you have now, John?

Mr. Linde: I just have one right now, but I've had anywhere between one and ten at different times.

Mr. Gordon: So, there have been trucks stored outside there since you've had the building?

Atty. St. Pierre: For the sixteen years, yes. He has just recently slowed down his operation. For the most part, nothing is going to change from what's been there for the sixteen years. Again, it's very similar to the Sullivan Tire operation. We tried to address your concerns with that with this as well tonight.

Mr. Salerno: Is there anybody in attendance this evening that wants to comment on this petition? Seeing no further comment, we'll take the matter under advisement, vote at the end of the meeting and notify you of our decision.

Atty. St. Pierre: Again, as an abutter and we own quite a bit of frontage along Route 20, I have absolutely no problem, on behalf of my family, with this operation. I think it's a good use. We are direct abutters.

### Decision

On October 26, 2004, the Shrewsbury Zoning Board of Appeals unanimously voted to grant the appeal of Berlin Bandag, Inc., 160 Colony Street, Meridan, CT, for a special permit as required by the Town of Shrewsbury Zoning Bylaw, Section VI, Table I, to allow the use of property located at 370 Hartford Tpke. for the sale and installation of motor vehicle tires and for the repair of trucks.

The building currently situated upon the subject premises was constructed in accordance with a special permit issued in January of 1988 and has been used for the storage and the maintenance of company owned trucking vehicles since that time. The appellant

proposes to utilize this building for the aforementioned activities specializing in large trucks and construction equipment. Due to the size and configuration of these vehicles, a significant amount of their business is conducted away from 370 Hartford Tpke. as roadside service or upon construction or similar remote sites.

Upon deliberation of this appeal, the board found that the use of this site by Berlin Bandag would be substantially similar to the nature of the vehicular repairs conducted thereon during the past 16 years. It was their opinion that the granting of the special permit would be consistent with the intent of the Zoning Bylaw in permitting such activities within the Commercial Business District and that this use would be compatible with other businesses located along this vicinity of the Route 20 corridor. It was, therefore, unanimously voted to grant the appeal as presented to the board subject to the following conditions.

1. Business hours shall be limited to those hours between 7 A. M. and 6 P. M., Monday through Friday, and between 7 A. M. and noon on Saturdays. There shall be no garage activities or sales conducted on Sundays.
2. The rights authorized by this granting shall remain in effect for a period of 5 years, said period commencing upon the date of the filing of this decision with the office of the Shrewsbury Town Clerk.

Vote

Mr. Salerno	Yes
Mr. George	Yes
Mr. Gordon	Yes
Mr. Rosen	Yes
Mr. Confalone	Yes

PUBLIC HEARING: Webster Five Cents Savings Bank, 261 Grafton Street,  
Shrewsbury, MA.

PURPOSE: To hear the appeal of Webster Five Cents Savings Bank, 136 Thompson Road, Webster, MA, for a variance to the Town of Shrewsbury Zoning Bylaw Section VI, Table I, to allow the use of property located at 261 Grafton Street for banking purposes and for variances to Section VII, Table II, Minimum Front Yard, Minimum Open Space and Maximum Lot Coverage Percent Requirements, Residence A District, and for variances to Section VII, Subsections D-1j and m, and to Subsection D-2d relative to the development of the aforementioned property for said use, including the off-street parking and parking lot landscaping in conjunction therewith. The subject premises is described on the Shrewsbury Assessor's Tax Plate 34 as Plots 71 and 72.

PRESENT: Anthony M. Salerno, Chairman, Paul M. George, Melvin P. Gordon, Alfred C. Confalone and Ronald I Rosen.

Mr. Salerno opened the hearing by reading the advertisement as it appeared in the Worcester Telegram on October 11, 2004 and October 18, 2004.

Mr. Salerno: I guess we'll get into that in more detail. Atty. Byrne, please.

Atty. Byrne: Mr. Chairman, I just have a few handouts. I've probably got too many handouts.

Attorney Byrne presented the handouts to the board members.

Mr. Salerno: Counsel, whenever you're ready.

Atty. Byrne: Mr. Chairman, members of the board, for the record my name is Kevin Byrne. I'm an attorney. My office is in Worcester and I live across the street on Elma Circle. The folks that are with us here tonight with reference to this appeal are, to my immediate left Atty. Mike Jalbert, who represents Webster Five Cents Savings Bank. I represent Mr. Nicholas Aoude, who is the principal owner or shareholder of Golden's Steakhouse and Pizza located at 271 Grafton Street. To Mike's left, is Kevin Quinn who is our engineer. To his left, is Paul Ghize who is the vice president of Webster Five Cents Savings Bank. To his left, is Jordan O'Connor who is our architect.

We're here tonight, Mr. Chairman and members of the board, seeking relief with reference to our Zoning Bylaw as it relates to the parcel of land that I think you're all quite familiar with. It is the so called triangular piece of land that runs between Grafton Circle and Grafton Street that is just north of where Nick Aoude's restaurant, Golden Steakhouse and Pizza, is located.

Webster Five Cents Savings Bank has a substantial number of branches throughout Worcester County and is looking quite seriously at this site as a branch bank for Webster Five. This is a process, Mr. Chairman and members of the board, that started back in the early summer in which plans were brought in. By the way, Nick has a land lease agreement with the folks from Webster Five which, obviously, is contingent upon the appropriate approvals, not only from this board, from the zoning board of appeals, but also from the planning board, which will hopefully review it at some point during the site plan review process that the planning board is mandated to view. Basically, we started this back in the summertime with meetings with Jack Perreault, with Eric Denoncourt and with our building inspector and indeed your zoning enforcement officer, Ron Alarie. We met two or three times over the course of the summer and the early fall and again on October 7<sup>th</sup> not yet having done a filing. We had the fortunate advantage of meeting with the planning board in an informal setting at a public hearing, but again, an informal meeting of sorts to get the view of the planning board towards this overall process.

Basically what we're looking at is this is a parcel of land, Plot 261, which is where the single family house is located and 271 is where the restaurant is located. Basically, this is a split zoned lot. Nick owns both of these parcels of land. When I'm referring to Nick, obviously, I'm referring to him in his corporate capacity. There is a zoning line that bifurcates this parcel of land. That to the south is basically Commercial Business and a portion of it that would be occupied, hopefully, in substantial part by Webster Five. This

part of the property is in the Residential A zone. So, the first relief we're looking for is the permission of this board, or the approval of this board, to permit a variance which will allow us to utilize this piece of Residential A property for commercial business purposes in part. Part of it that's going to be used for commercial business and part of that to be used by the bank is also in the Commercial Business zone. So, we've got that bifurcated area that's before us.

The purpose of my having submitted to you folks, or Mike and I having submitted to you folks, an amendment to this is not to have changed the original filing in any shape, manor or form. It's in complete compliance, basically, with the original filing of the Form of Appeal that was here. Basically, as the chairman suggested, it might have been a little confusing. It's our attempt, hopefully, to make it less confusing. I hope that we've done that.

This is a parcel of land, Mr. Chairman and members of the board, that's had a bit of a history in terms of appearances before this board. It started back in September of 1995 in which the Provincines, who owned the property prior to Nick having purchased it, came in before the zoning board of appeals asking, because of the somewhat unique character of the residential property line cutting across this piece of property with Grafton Circle on one side and Grafton Street on the other side kind of gratuitously being cut across this parcel of land, to use this particular piece of land for commercial business purposes. The language of your decision, the ZBA decision back in 1995, I've set forth in the amendment. It kind of spells it out more clearly than I can.

The subject site is located at the junction of Grafton Street and Grafton Circle and is situated northerly of the Commercial Business District. It begins at Route 9. Route 9 is where NTB is located. The premises is virtually an island of single family residentially zoned land surrounded by highly traveled roads, multi family houses and commercial businesses. Under the circumstances, its continued use as a single family home is impractical and imposes a significant hardship to the owner. That, again, established that this parcel of land is, candidly, not suited and not appropriate for a residential development itself or to be used as such.

In 1996, Nick came in with the restaurant. Again, this board in December of 1996 made the determination that this narrow strip is severed from commercial zone by the district boundary line and noted that the adjacent properties are developed for business purposes. Again, the variance was given in 1996.

Again, in 1997, this board granted a variance, based on that hardship, to utilize the site for office activities and found that such use satisfied the statutory requirements of the granting of the variance. Intriguingly, the only other time that we appeared before the board in which we were not successful is one time, and I can't remember when, I think it was either two or three years ago, when Nick came in saying "Well, we can't do it as a single family residence, but can we do it as a duplex or a triplex as such?" This board, rather intriguingly and somewhat ironically, denied that variance based on the fact that it really is inappropriate to use this property for residential purposes.

So, basically, I suggest to you that the site itself and its use for commercial business purposes, candidly, meets the requirements. As we go on further, I think that you're going to find that the exciting plan that the bank has put together, with the help of Jordan and with Kevin, is appropriate.

Since the time that I put together this amendment, we found that there are two variances that we don't need, thank goodness. One is that we do not need a variance for the open space requirements. Let me put this in perspective for you. Our view initially was that, if you folks would permit us to use this property by variance for commercial business purposes, would we then be determined or be bound by what is the requirement for open space, lot coverage and the rest of it under a commercial zone rather than in a residential zone? Ron said that it would be more appropriate if it came before the board and said okay, even though we're going to use it for a commercial business venture, it's still going to be residentially zoned, even though it will, hopefully, be subject to a variance. But we should at least come before you people and establish what is the difference between usages in a commercial business and what are the requirements in a commercial business zone as opposed to a residential zone. At one point, we thought that the open space requirement, which is different in residential than it is in commercial, that some relief would be needed. Kevin has fortunately worked out the figures and found that we don't need that variance for the open space. Also, we don't need a variance for the lot coverage requirement from you folks even though we've asked for those. This is relief that we don't think that we need. Correct?

Mr. Quinn: We do.

Atty. Byrne: We do. Kevin will tell you exactly why.

Mr. Gordon: You only need half of number four?

Atty. Byrne: We need a front yard setback. Kevin will explain that to you. The front yard setback in a commercial zone is 40 ft. In a Residential A zone, which is what this is presently, it's 50 ft. We have 44 ft. So, we're kind of half in the middle of those.

The other areas that, obviously, these folks can talk about with much more understanding than I can are, basically, the parking issue and the landscaping setback requirement that we have that we meet in substantial part, but parts of it we don't. So, basically, the bottom line is that we are looking for some relief. The major relief obviously is for you folks to permit us, as you have in the past and, indeed, it's presently being used, even though it's in a residential zone, for commercial purposes for some parking that's going on there, to use it fully for commercial purposes and to give us that relief.

The other appropriate relief that we're going to need in order to fit this building into this site, Kevin Quinn can explain to us in detail. I've probably confused you even more.

Mr. Quinn: I'm Kevin Quinn with Quinn Engineering. The bank asked me to prepare a zoning analysis. I have a summary analysis here that shows how the proposed site plan accommodates the zoning requirements.

Mr. Quinn presented copies of the documents to the board members.

Mr. Quinn: If it's helpful, I'd be happy to briefly go through it and certainly show you the basis of this.

First of all, as Kevin said, the use for a bank is not allowed in Residence A so we need to have a use variance to allow a bank use in the residential district. Kevin went through some of the mechanics of the dimensional requirements and how we comply. One of the aspects of this that we're asking to board to consider is that we're treating this site as an aggregate site. It is, in fact, a site that has two buildings. It's one parcel of land with two buildings on it. So, the discussion that you see there treats this site as an overall site.

A second important consideration that we're placing before the board is what I call "complimentary parking." We have two uses here whose hours of operation overlap minimally. In fact, they compliment one another in that a bank operates during daylight hours and the restaurant operates primarily in the evening and the hours are complimentary to one another. We would ask the board to consider the parking in a complimentary fashion. By that, I mean we've shown you the overall parking on the site as 93 spaces that are available. We're looking at this and saying that the proposed bank branch requires 35. The restaurant requires 94 spaces. We can make some accommodation for that as well at the will of the board. In essence, what we're saying is, from a timing standpoint, that these businesses work well together and, from a parking standpoint, that these businesses work well together. We think the use of the parking in a complimentary fashion is helpful to us.

Mr. Salerno: So, you want to use the parking twice? You want to use the same parking?

Mr. Quinn: Exactly. The idea being that the bank's customers come in during the day. The bank has experience that I think they can talk a little bit about as far as their requirements, but essentially, during the day is when the bank is in full operation. The evening hours are when the restaurant really hits its peak. So, at a time when the need for parking to accommodate the bank is tapering off, the need to accommodate parking for the restaurant is just beginning to get started.

We think that this is kind of a nice use for this piece of land. From the bank's perspective, this is a very desirable location. It's visible; it's accessible. It suits the bank's needs to be in a residential neighborhood. I think they can talk to you a little bit about that, the residential aspects of the building itself.

The complimentary parking aspect of this is something we like from an environmental standpoint. Instead of designing two relatively gargantuan parking lots, we're combining these and making a more efficient use of the area that's available to us on the land. Again, we find that attractive because we're the proponent. We act on behalf of our client. But, I think, from a community standpoint, it bears consideration. So, we hope to enlist the consideration of the board in that respect.

I did not go through the specifics of the dimensional table that we've provided for you and shown where we require relief. I certainly would be happy to answer question from the board if you have some.

Mr. Salerno: Go ahead.

Mr. Gordon: Are you going to turn this into one lot? Right now, it's two levels. Is it going to be one level or two levels?

Mr. Quinn: It will be one level. The proposal that you have in front of you, this is a retaining wall and, essentially, the bank site will be filled and raised to approximately the same level as the restaurant.

Mr. Salerno: What will face 140?

Mr. Quinn: Grafton Street?

Mr. Salerno: Yes, Grafton Street. What's going to face that?

Mr. Quinn: The bank's entrance will be on Grafton Street. Is that your question? Oh, the building itself?

Mr. Salerno: Yes. You said that you're going to fill with the slope.

Mr. Quinn: Oh, yes. I'm sorry. The filled side will be on site and the wall will face Grafton Circle.

Atty. Byrne: There's an enormous gully as you come from south to north. There's a retaining wall and an enormous gully. The bank's purpose is to fill that in and make it all level and to move that retaining wall around to the other side so that the 140 part of this will basically remain somewhat the same.

Mr. George: How far will the retaining wall be from 140?

Mr. Quinn: As we show right now, the solid line that you see on the outside, that's the edge of pavement. This is approximately 10 ft., Jordan, 15 ft.?

Mr. Gordon: So, it's not in the right-of-way.

Mr. Quinn: Oh no, it's not in the right-of-way. It's well on the property.

Mr. Gordon: Grafton Circle is the one that goes under the bridge.

Mr. George: Right. That's 140.

Mr. Quinn: Yes. This is the curved section and the light is here.

Mr. George: Right.

Mr. Quinn: Staples is over here.

Mr. George: Our question was, how far is the retaining wall going to be from the street?

Mr. Quinn: From the roadway?

Mr. George: Yes.

Mr. Quinn: I'd say that it's approximately 12 ft. from the edge of pavement. It's, I would say, 6 ft. plus from the property line.

Mr. George: How tall is that retaining wall?

Mr. Quinn: That varies.

Mr. O'Connor: My name is Jordan O'Connor. I'm the architect. If you'll just give me a second, we've got an existing plan here. This drawing might be in your package? It's listed as "Existing Site Plan." Right now, this was excavated kind of in a right-hand corkscrew. So, this is the lowest part of the site. Right here where my finger is traveling, is the existing retaining wall. It's about 8 ft. here. It's kind of a hard question because, essentially, the top along this area gullies and goes up. By my eye, if you're standing about here and here, you're actually about at the same elevation then that was scooped out the ability to stop that topo was by putting in the retaining wall. Essentially, what we're doing is we're filling that in and then keeping the retaining wall here. The top of that wall is going to vary. Its highest elevation will probably be right about here at the gully of the existing roadway. If this is eight feet, this is going to be less than eight feet. We don't have a definitive plan in front of you, but I'd say probably six to seven feet max. Then it would start to minimize to zero up at this point. We're attempting, at this point, to put in a retaining wall. We'd have some riprap. We'd have something other than a big blank wall. We would try to minimize the impact.

Mr. Salerno: You don't have any side profiles?

Mr. O'Connor: Of the retaining wall?

Mr. Gordon: Kevin, have you done elevations?

Mr. Quinn: Yes.

Mr. O'Connor: If I may, a couple of points on the architectural front. The intent by the bank is, as with any commercial entity that has more than one location, to create a certain personality, a certain presence, be it an entire warehouse or a bank as in this case. The closest architecture that they have that they would like to place in this location is similar to what they have in their Oxford branch. I'll give you a photo of it. I'll be happy to share that with you.

Mr. O'Connor presented the photo to the board.

Mr. O'Connor: The nature of the branch is going to be fairly residential by its obvious use of residential elements, both in terms of its pitch, the use of residential materials, clapboards, small scale windows and so forth. The other is that the bank does a very good job of its landscaping just because they want it to be inviting as well to their customers. So, the intent here will be that even though we are a commercial use, this small peninsula of land will still have, I think, a fairly heavy residential look to its architecture. It's one story. It's got some small scale elements that I think will kind of minimize the impact of any structure on this corner.

We are attempting to work with a fairly tight site. When you have this kind of tight radius with a peninsula, you've only got so much efficiency you can work with. You've got the isles and the parking spaces themselves. You've got the nature of the branch itself that has a certain amount of dimensions between teller line, lobby and so forth. So, we are asking, as part of this variance, to keep this line which, essentially, is the edge of existing pavement right now and which does not conform to your landscape buffer. We'd like not to rip that out because if we don't, we have no width left for the needs that we have that have to do with parking isles and the bank itself.

To minimize that, and that's part of what that photo shows you in terms of the intent on some of the others, is to heavily plant out the corner. As Kevin said, it's a desirable location for the bank because of its traffic count and because it's in the Town of Shrewsbury. Also, it's interesting to be on the corner. You want to enhance that as well.

Mr. George: What are your plans for landscaping along the front?

Mr. O'Connor: There are strips along the back that you would normally plant out anyways. What we've got here. Because the efficiency of what you can do in terms of asphalt and the isle and the parking spaces, the void spaces primarily along here, we'll do some effort at this point to minimize the wall. The heaviest use of planting would more or less be on that corner.

Mr. George: So, the front of the building will have basically asphalt? Is that what you're saying?

Mr. O'Connor: By the front of the building, you're referring to right here?

Mr. George: The front and towards the road on Grafton Street itself.

Mr. O'Connor: On Grafton Street itself, right now there are literally only about eighteen inches or two feet between here and our property line so we don't really have the opportunity to do anything. We've got a landscaping strip of five feet between the edge of asphalt and the building proper itself here, landscape strip along here and probably the biggest emphasis, and we would plant it out with some heavier landscaping elements, would be in the edge between asphalt and here.

Mr. George: Okay. So, next to the entrance, that is going to be all parking along the front?

Mr. O'Connor: Right here?

Mr. George: Yes.

Atty. Byrne: Paul, that's the existing parking and asphalt that's already there.

Mr. O'Connor: Well, it's an existing isle. Right now they use this isle as the ramp to go down.

Mr. Gordon: Isn't it below the road?

Atty. Byrne: No, not there.

Mr. O'Connor: It starts to go down below the road although, if we're given the opportunity, we're going to be having to fill that in to be able to start to flatten out the side over here.

Mr. Gordon: That's where the gully is?

Mr. O'Connor: Well, the gully's here.

Mr. Gordon: Right there?

Mr. O'Connor: Or, in here. They're starting to go down at this point.

Atty. Byrne: What we had discussed with Ron and what Ron had said is that there is existing asphalt and parking in that area that is right in front of where the building is now and where the new building will be. There is then a strip of about three feet or so which is the grassed area that's already there that Mr. Romney apparently owns right at the moment. There is no plan. We went through this with Ron and with Jack Perreault and, if any reconfiguration of Route 140 gets to be done, and that's on the plan in terms of the northerly part of it to clean up that intersection, there is no plan whatsoever to widen or do anything beyond the existing area. So, although it's not ours, there is about a three foot strip of land that's there, that's grassed right at the moment. So, it's not exactly as if the asphalt goes directly up to the roadway itself.

Mr. George: Right.

Mr. O'Connor: I would offer also, as well, that there are about six other locations with commensurate type of landscaping. I'll be happy to show you some other existing conditions.

Mr. Salerno: I challenge you to show us a lot that's shaped like this though.

Atty. Byrne: Mr. Rosen always has to ask if there any other hardships. I said if the three standards are shape, topography and soil conditions, we sure got shape, we sure got

topography. I said to Kevin earlier “You may get in there and find out that you may have soil conditions on top of everything else.”

Mr. Rosen: The hardship on soil is the lack of. I thought it was evident on this one.

Atty. Byrne: Well, you’re supposed to ask for that. I was ready.

Mr. Salerno: Is this the first venture into Shrewsbury?

Mr. Ghize: Yes. Paul Ghize, Webster Five. We’ve been developing starting with, obviously, Webster and we moved into Auburn and Worcester. Our goal was to move east. We saw this as an excellent location to, basically, service the Shrewsbury community. But the interesting part about this, in our opinion, is that it has all of the access of getting in and then getting out and giving the customer 24 hour service.

The banking industry has changed dramatically in the last four or five years. I’ve said this previously at other meetings. We have a combination now of on-line banking, internet banking, debit cards, ATMs. The customer still wants a branch location, but they have so many distribution channels now that normally the parking issues are not as tight as they used to be five, six, seven years ago. People come in and out 24 hours a day so we just saw this as an ideal location giving us an opportunity to service the Shrewsbury market and the surrounding towns and moving towards the east. We were quite excited about it.

Mr. Rosen: Is there a proposed drive thru or ATM?

Atty. Byrne: Perhaps, Jordan, you could show them.

Mr. O'Connor: I can. It’s a left-hand turn. So, what we’ve got is cars being able to queue up and basically drive through the drive-up in here.

Mr. Gordon: That was one of the planning board’s or engineering department’s issues, the safety of the queues because the ATM queue, if you look, if there are more than two cars in the ATM line that closes off the circle around the building. So, I think we asked that they look at that to see if there was a way to make it safer. Of course, one of the ways to make it safer is for people to see it and go into the building. But, they’re already around and they won’t be able to get through.

Mr. Rosen: There’s no way back, right?

Mr. Gordon: So, we wanted to find, if possible, and I know it’s not part of a variance, a way to safely have that outside lane always be accessible some way.

Atty. Byrne: In terms of the bylaw, we meet the bylaw requirement of six. The bylaw requires six cars for storage. We meet that requirement. One of the insights that we got from, I think it was Mel at the planning board meeting, is perhaps lighting that in some way.

Mr. Gordon: Or having some way to tell people that there are people there because, when there are six cars there, I think it's after three or four, basically, you can't go around and this is a one-way site.

Mr. Rosen: Is there any way to do it having just one lane and putting them both in tandem?

Mr. O'Connor: Well, yes. We certainly spent some quality moments discussing that as an issue and also the issue of how much real estate we have to work with. We physically don't have enough land to put another eight or nine feet. One of the things that we were talking about at the last meeting, and we've shown it on the plan as a revision, is to put in an isle indication light at this point near the beginning so it's like feel free to come this way but you're going to be waiting in line.

Mr. Gordon: There's going to be a line?

Mr. Rosen: Once you're in, you're in.

Mr. O'Connor: This is two-way at this point. I think we all know the site well enough to know that we're not changing the curb cut. If things get inconvenient, it's inconvenience for the bank's customers which is an issue for the bank but isn't necessarily causing a backup, obviously, onto Grafton Street.

Atty. Byrne: Not telling tales out of school, but at the planning board meeting we discussed this.

Mr. Gordon: Informal discussion.

Atty. Byrne: Mel can, obviously more appropriately than I can, respond to that. I think that what we got from the planning board was very appropriate. Eric, at that meeting, said that he saw no problem with this site and thought that it was a good use for the site. There was no question that there was going to be a safety issue with terms of storage of cars getting onto Grafton Street itself. It was internal.

Mr. Gordon: The only safety issue was that, if you're in line and you're the gentleman who takes anger with everything, you're in that line. He's one of a minimum, hopefully, that might be a problem for. We were looking to try to eliminate problems.

Atty. Byrne: And we're not going to talk anymore about drive-thrus Mr. Gordon.

Mr. Gordon: Not unless they're at Duncan Donuts.

Mr. Confalone: Or, I may guess the problem might be emergency egress. I think that's probably engineering's major concern.

Mr. Gordon: I think everybody would clear out if there was an emergency.

Mr. O'Connor: Well, the other thing is in terms of a fire truck coming in here. We were proving kind of with a heavy hand to show how many cars we can stack up here as if we were going to get eighteen cars piled up waiting to get through. If a fire truck comes in here, they've got their hoses. They're going to come in and people are going to scatter out of their way. They've got access.

Mr. Confalone: So, they would have to abandon their cars to get out of there because they wouldn't be able to egress the property properly if there was an emergency?

Atty. Byrne: Well, I think those are issues, candidly, that we're still ongoing with the folks on the second floor and, very, very shortly, with the planning board.

Mr. O'Connor: We have two-way isles here so it's 24 ft. at this point. This is a normal parking lot. We're 22.8 ft. here even though it's one-way. It's just between 22.8 and 24 ft. It's still a very generous isle. This is the hardship.

Mr. Confalone: It's that corner there.

Mr. O'Connor: It is that corner.

Mr. Confalone: The building can't be brought in at all there without providing a huge hardship to you?

Mr. O'Connor: The problem is, without sounding obstinate, no. You've got a certain amount of criteria here between angled parking and the isle. You need to have a little bit of real estate so that you don't just take up the corners of your building. You can only make the lobby so tight. Even if you make it longer, you're not allowing people to basically stand in line. The site still lends itself for the teller line to be in this location, in this access area. We've already shrunk it down. Can we shrink it by a couple of feet, yes. Can I get nine or ten feet out of this, no.

Mr. Confalone: So, it doesn't solve your problem?

Mr. O'Connor: It does not solve that problem.

Mr. Gordon: I forget the vice president's name. I'm sorry.

Mr. Ghize: It's Paul Ghize.

Mr. Gordon: Paul, you explained to us at the planning board hearing how your banking has changed and how quickly people go and that most people do not go to the branch anymore. They do their banking at home and they use ATMs. In fact, one of your larger competitors is now looking like they're going to eliminate every person so that you go to the ATM, put your money in to pay your bills and to do all sorts of things. I don't know if anybody's working in a bank, who's going to be paying these bills or doing these things, but you were saying that there are not really long lines anymore in banking. You had some figures.

Mr. Ghize: The combination, if I went back and did the analysis of our transactions on the teller lines of all of our branches, it's actually going down. It doesn't mean that a customer doesn't want a teller. The research shows us that everyone likes to go into a branch once, twice maybe three times a month. The issue is the speed of the transaction. You're able to get in and out of the branch a lot more rapidly.

Our Oxford branch, which is what you've seen there, is probably one of our busier branches from both a customer level and a teller level. We actually have less spaces there than what we would propose here. We have never had a backup. You probably get three people through the drive-up at one given time. It just doesn't happen anymore. None of our branches really ever get backed up. Our Thompson Road, which is our main office, is generally the same.

Mr. Gordon: What about Park Avenue in Worcester?

Mr. Ghize: Park Avenue in Worcester was actually a branch that we shared with the Red Cross. They subsequently moved out of the building next door to us. But, at that time, it was never an issue. They actually have a tighter turn than we would have there getting around to get into the parking lot.

Experience has shown in the last four or five years that the banking industry has just changed dramatically. It's just a combination of transactions that people do now. So, with these transactions, you never have a group of people in at the same time. More people are getting direct deposit. They just don't have that need. On the flip side of that, there's not a customer around that tells us that they don't want a branch. So, if that competitor goes totally automated, I'll look for opportunities to gain some business.

Mr. Gordon: Your demographic is what? What is your customer base?

Mr. Ghize: Our customer base is probably a little more on the senior level in our Webster branch locations and much younger as we move towards Auburn and Oxford. From a demographic standpoint, it's changing dramatically as we move out towards the eastern side. So, it's a combination of probably more blue collar versus affluent, but then it starts to change.

Mr. Gordon: Your major competitor then would be the credit unions?

Mr. Ghize: Credit unions are a major competitor of ours as are the fellow community banks, the smaller regionals. Quite frankly, we did quite well with the Fleets and the larger ones because they couldn't service the customers like we do. We service them well. That's the only thing that we base it on, service. That's why we're anxious to set up a system that can give total customer service.

Mr. Gordon: Kevin, would reserved parking work here? Would you still be able to comply? You still have to have all the spaces, but do you need all the spaces?

Atty. Byrne: Are you talking about the 25 percent?

Mr. Gordon: Yes. You need to do it, but I'm wondering if at the front where you say you're going to have all asphalt, if you don't need it and if we could reserve it for parking and have grass until a year later if you saw that you needed it then you put it in, could that work.

Mr. Rosen: The restaurant needs more than that.

Mr. Gordon: The restaurant's got adequate parking.

Mr. Rosen: They're doubling up the spaces.

Mr. O'Connor: There are a total of 93 parking spaces. If we were allowed to build what's shown on paper, there would be a total of 93 parking spaces which, when the restaurant is open, they theoretically need.

Mr. Gordon: Ninety-three spaces?

Mr. O'Connor: They need 93 spaces.

Mr. Gordon: Okay.

Mr. O'Connor: When we are talking about complimentary parking, it just means that we're sharing the spaces. We don't need 93 spaces. We only need 30 odd spaces because the bank basically stops their hours at 4:00. Other than one evening, Thursday evenings, there is no conflict. I guess in my business too, in most new projects where we're taking something down, whether it's trees or buildings or whatever, we generally have separate requirements. This is kind of unique in a sense that we're able to piggyback on top of an existing site because we're not impacting the same hours.

Atty. Byrne: If you were to literally start counting spaces per our bylaw, you need so many spaces for teller windows, so many for ATMs and the restaurant. Correct me if I'm wrong, bylaw wise, this should have 35 parking spaces. What we're attributing on the ground, physically located for the bank, we have 31.

Mr. Gordon: Is there other shared parking or shared resources on these lots on the other side with the tire company?

Atty. Byrne: No. There was talk at one point with Nick with whether or not at some point, if we needed to do some sort of a deal with NTW, we were going to pick up some additional spaces. But, it turned out that one, he didn't need to do that and two, we probably couldn't have done it if we had wanted to.

Mr. Salerno: Do any board members wish to inquire? Is there anybody in attendance this evening that wants to comment on this petition?

Mr. Gordon: When are you coming for site plan review?

Atty. Byrne: We can't get it in November, so probably December. You're next meeting is November 4<sup>th</sup>?

Mr. Gordon: November 4<sup>th</sup> and then December 2<sup>nd</sup>.

Atty. Byrne: No, no we can't be there on November 4<sup>th</sup>.

Mr. Gordon: No, I'm saying December 2<sup>nd</sup>.

Atty. Byrne: Whatever you're December meeting is.

Mr. Gordon: Okay. I'm all set.

Atty. Byrne: Basically, Mr. Chairman and members of the board, I think we're looking for everything of sorts on here. I miss spoke, except we do not need the variance for lot coverage. I'm sorry, what we do not need is open space.

Mr. Salerno: The minimum open space is withdrawn from the request and that's the only request that's withdrawn?

Atty. Byrne: Again, the other view is we're asking you for the variances because it will still be in a Residential A zone.

Mr. Salerno: You're just asking us to rezone it?

Mr. Gordon: That's probably the truth of it.

Mr. Salerno: When would you plan to be operating if you were granted the variances?

Atty. Byrne: That's up to Paul and the Feds I think.

Mr. Ghize: We're anxious to get all of the approvals because, until we have them, we can't file with the Feds and the state. That takes time because you have to go through public notice and everything. Our original thought process was probably July or August, but I would have to rely on other people to determine whether or not that would be doable. But, I need to have the approval before I can get the address to the Feds and state.

Mr. Confalone: Typically your hours would be what?

Mr. Ghize: Our hours would be 8:00 in the morning until 4:00 in the afternoon. That first half hour is the drive-thru. On Thursdays, 8:00 to 7:00 in the evening and on Saturday 8:00 to 12:00.

Mr. Salerno: Okay. That will bring to an end the presentation portion of our meeting.

The decision of the board is on the following page.

## Decision

On October 26, 2004, the Shrewsbury Zoning Board of Appeals unanimously voted to grant the appeal of Webster Five Cents Savings Bank, 136 Thompson Road, Webster, MA, for a variance to the Town of Shrewsbury Zoning Bylaw Section VI, Table I, to allow the use of property located at 261 Grafton Street for banking purposes and for variances to Section VII, Table II, Minimum Front Yard, Minimum Open Space and Maximum Lot Coverage Percent Requirements, Residence A District, and for variances to Section VII, Subsections D-1j and m, and to Subsection D-2d relative to the development of the aforementioned property for said use, including the off-street parking and parking lot landscaping in conjunction therewith.

The subject property is located between Grafton Street and Grafton Circle and is bisected by a district boundary line. The northerly portion of this site, which is occupied by a single family dwelling, is located within a Residence A District and the southerly portion, where the Golden's Steakhouse restaurant sits, is zoned "Commercial Business." Due to the configuration of this parcel, its location, its topography and its dual zoning, a number of appeals have been presented to the board over the past several years and the board has found that these conditions have presented a significant hardship to its owner in his attempt to develop it for viable uses. Relief has been granted from the literal application of various terms of the Zoning Bylaw to permit part of the residentially zoned area of this site to be used for accessory parking for the restaurant and to permit the use of the dwelling for office activities. The appellant seeks the aforementioned relief to allow the siting of a branch bank thereon.

In deliberating this appeal, the board concluded that the portion of this property that is located within the Residence A District is neither acceptable for nor conducive to residential use. It was their opinion that the imposition of the literal terms of the Zoning Bylaw, as illustrated in the past, imposes a substantial hardship to its owner and that reasonable relief could be granted to permit its use for commercial purposes. After reviewing of the site plan submitted and the applicant's presentation to the board, they concluded that the operation of a banking facility upon this property, in conjunction with the existing restaurant, would be an appropriate use of the site, that it would compliment the other businesses situated to its south along both Grafton Street and Route 9 and that it would not adversely impact the welfare of the general public. It was, therefore, unanimously voted to grant the appeal in accordance with the appellants' presentation to the board.

## Vote

Mr. Salerno	Yes
Mr. George	Yes
Mr. Gordon	Yes
Mr. Rosen	Yes
Mr. Confalone	Yes